IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7384 of 2005

Between:

Smt. Sala Lakshmi Bai W/o Sala Prabhakar
R/o 10-148/10/J to L Ganesh Nagar, Balanagar (M)
Ranga Reddy District.

.....PETITIONER

AND

The Commissioner Kukatpally Municipality, Kukatpally,
Ranga Reddy District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in issuing impugned proceedings in C.O.No. TPS III-117/2004-05 dated 31-03-2005 for demolition of my residential house bearing D. No. 10-148/10/J to L on Plot No. 49 Part and 52 part in Sy. No. 54 and 56 admeasuring 110 Sq. yard situated at Ganesh Nagar Formerly Known as Vinayaka Nagar, Balanagar Mandal,Ranga Reddy District, as illegal, unjust arbitrary and malafide besides being violative of provisions of A.P. Municipalities Act 1965 and A.P. Urban Areas (Development) ACt 1975.

Counsel for the Petitioner:MR.K.SANKARAYYA

Counsel for the Respondent : MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

The Court, at the stage of admission, made the following:

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ORDER :

This writ petition is filed aggrieved by the order dated 31-03-2005 passed by the respondent under Section 56(1) of the Andhra Pradesh Urban Areas (Development) Act, 1975, thereby directing the petitioner to remove the unauthorised constructions alleged to have been made by the petitioner in Sy.Nos.54, 56 and 57 of Ganesh Nagar of Bala Nagar (v) area of Kukatpally Municipality, Ranga Reddy District.

In the impugned order, it is stated that though a show cause notice was served on the petitioner on 23-03-2005, the petitioner failed to submit her explanation and therefore the impugned order has been passed on the material available on record. However, the petitioner states that on receipt of the show cause notice, she has submitted an explanation on 25-03-2005 itself, but the respondent failed to consider the same. A copy of the explanation dated 25-03-2005 is filed at page No.15 of the material papers along with the writ petition and it bears the acknowledgment, which shows that the said explanation was received in the office of the respondent on 28-03-2005 itself.

In the circumstances, I am of the opinion that the respondent ought to have passed appropriate orders only after taking into consideration the explanation offered by the petitioner. Since no such procedure was followed, the impugned order, which is not in conformity with the principles of natural justice, is liable to be set aside.

Accordingly, the writ petition is disposed of with a direction to the respondent to consider the explanation of the petitioner, which was received in the office of the respondent on 28.03.2005 and a copy of which is filed at page No.15 of the material papers along with this writ petition, and to pass appropriate orders in accordance with law. Till such orders are passed and a copy of the same is communicated to the

petitioner, the respondent shall not interfere with the possession of the petitioner in respect of the house bearing D.No. 10-148/10/J to L in Plot No.49 and a part in Plot No.52 in S.Nos.54 and 56 admeasuring 110 square yards situated at Ganesh Nagar, Balanagar Mandal, Ranga Reddy District. No costs.

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04th April, 2005.

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To

1) The Commissioner Kukatpally Municipality, Kukatpally,

Ranga Reddy District.

2) Two C.D.copies.